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Conservator of the Estate of David Silnitzer
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County of Fresno
By: A. Rodriguez, Deputy

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF FRESNO, CENTRAL DIVISION

10 FRESNO COUNTY PUBLIC
GUARDIAN, CONSERVATOR OF THE
11 ESTATE OF DAVID SILNITZER,

12 Plaintiff,

13 v.

14 BRAR FINANCIAL SERVICES, INC., a
California corporation, dba CLOVIS
15 CHECK CASHING, CALIFORNIA
CHECK CASHING STORES, LLC, a
16 Delaware limited liability company; and
DOES 1 through 25, inclusive.

17 Defendants.
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Case No. **19CECG02751**

**COMPLAINT FOR MONETARY
DAMAGES FOR VIOLATION OF
WELFARE & INSTITUTIONS CODE
§15610.30; NEGLIGENCE; UNFAIR
BUSINESS PRACTICES UNDER BUS.
& PROF. CODE §17200, ET SEQ.;
AND JURY DEMAND**

19 COMES NOW Plaintiff Fresno County Public Guardian, in its capacity as
20 the Conservator of the Estate of David Silnitzer, alleges as follows:
21

22 **I.**

23 **PARTIES AND JURISDICTION**

24 1. Plaintiff Fresno County Public Guardian ("Plaintiff") is a division of
25 The County of Fresno which has been appointed and is currently the duly acting
26 Conservator of the Estate of David Silnitzer (the "Conservatee").

27 2. Plaintiff is informed and believes, and thereon alleges, that Defendant
28 Brar Financial Services, Inc. dba Clovis Check Cashing ("Clovis Check") is a California

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COMPLAINT FOR MONETARY DAMAGES FOR VIOLATION OF WELFARE & INSTITUTIONS CODE §15610.30;
UNFAIR BUSINESS PRACTICES UNDER BUS. & PROF. CODE §17200, ET SEQ.; NEGLIGENCE; AND JURY DEMAND

Petition”) and a Petition for Appointment of Probate Conservator of the Person and Estate (the “Permanent Petition”) of Silnitzer. The Temporary Petition was granted and Letters of Temporary Conservatorship of the Person and Estate issued on February 6, 2019. The Permanent Petition was granted and Letters of Conservatorship of the Estate issued on March 8, 2019.

7. Silnitzer is a 74-year-old widower, whose spouse, Virginia Silnitzer (“Virginia”), passed away on or about November 5, 2015. At all relevant times pertaining to this Complaint, Silnitzer was 65 years of age or older and elder.

8. At the time of Virginia’s death, Plaintiff is informed and believes, and thereon alleges that Silnitzer’s net worth exceeded \$6,000,000 and consisted in excess of \$6,000,000 in stocks, securities, real property, cash, and cash equivalents.

9. In the past year, Silnitzer underwent a capacity test known as Mini-Mental State Exam (MMSE Test), which is designed to evaluate everyday mental skill. Silnitzer scored a 5 out of 30 on the test, which indicates severe dementia. On information and belief, Silnitzer lacks mental capacity presently and has lacked mental capacity for the past several years and at all relevant times pertaining to this Complaint.

10. By August of 2016, less than a year after Virginia’s passing, Silnitzer became entangle with a woman named Christina M. Alvarado (“Alvarado”). Alvarado has a criminal history that includes arrests for prostitution, possession of a controlled substance, and possession for sale of a controlled substance. Alvarado has been arrested and spent time in jail. Notwithstanding her checkered past, Silnitzer came to repose great trust and confidence in Alvarado and relied on her as confidant, friend, caretaker, support person, and even referred to her as his fiancé at points in time. Alvarado moved in with Silnitzer and was residing with him at his residence by at least early 2016, if not sooner.

11. On June 11, 2018, Alvarado and/or a woman named Brenda L. Denning (“Denning”) created or procured a Durable Power of Attorney For Financial Management (the “DPA”), which Conservatee executed on that date. The DPA was effective immediately and nominated Alvarado as his agent. The DPA was witnessed by

1 Denning and an individual identified as Nicole Anselmo. On information and belief,
2 Conservatee lacked capacity to create the DPA. Alvarado as the principal, and Denning,
3 as a conspirator, then utilized the DPA to continue the financial elder abuse that they had
4 been perpetrating.

5 12. Silnitzer banked with Bank of America. In August of 2016, the bank
6 activity on Silnitzer's account raised alarm. From August 1, 2016, to September 12, 2016,
7 \$83,034 in withdrawals were taken from the account. During this time period, there were a
8 number of cash withdrawals from non-Bank of America ATMs, including numerous being
9 from casinos.

10 13. Silnitzer, with Alvarado's assistance, control, and influence, opened a
11 Chase Bank Account (Acct #116592707) with a cashier's check for \$909,246.73, which
12 was issued from BBVA Compass Bank, and was made payable to Silnitzer and Alvarado
13 jointly. Over the next eleven days, \$43,000 in checks were written from the Chase
14 Account, including \$15,500 to Alvarado and \$20,500 to Denning. Denning made other
15 deposits into an account at Chase in her individual name which came from Silnitzer's
16 assets. Denning's Chase Account (Account 3152075195) received numerous deposits
17 totaling \$98,270 from accounts in Silnitzer's name between October 11, 2016 and
18 November 2, 2017. On March 1, 2017, a withdrawal of \$812,507.74 was made from the
19 Chase Account. Each of Chase, Bank of America, and BBVA, closed Conservatee's
20 accounts as a result of the suspicious activity. By March 2, 2017, Plaintiff is informed and
21 believes Denning had also moved in with Silnitzer and Alvarado.

22 14. Once all three bank accounts were closed, Silnitzer and Alvarado
23 moved on to using check cashing companies to conduct financial transactions. From at
24 least March 2, 2017 through at least February 23, 2018, Alvarado began taking Silnitzer to
25 at least two checking businesses in order to cash dividend checks and cash stocks.

26 15. First, between March 2, 2017 and at least September, 2017, Alvarado
27 caused Silnitzer to cash at least \$1,522,377.54 in checks at Clovis Check. These checks
28 were comprised of 102 checks. The first check cashed on March 2, 2017, was for

13147-0001\477808.2

1 \$800,719.76. For each check cashed, Clovis Check charged a fee. On information and
2 belief, Clovis Check collected a total of at least \$60,105.27 in fees from the checks cashed
3 by Alvarado. Clovis Check thereby assisted in and profited from Alvarado's wrongful
4 taking of Silnitzer's money. On information and belief, Clovis Check knew or should have
5 known that Alvarado was unduly influencing Silnitzer, and that she was engaging in
6 financial elder abuse. In addition, at all times that checks were cashed at Clovis Check,
7 Silnitzer lacked the capacity to enter into an agreement whereby Clovis Check would
8 charge a fee for the checks being cashed. On information and belief, Alvarado knew
9 Clovis Check's owners, employees, agents, and representative and conspired with them to
10 carry out her financial elder abuse.

11 16. Alvarado also took Silnitzer to California Check where between at
12 least November 21, 2017 and July 25, 2018, a series of checks, dividends and stocks were
13 cashed in the total amount of approximately \$2,232,466.08. A number of these
14 transactions exceeded \$25,000. Alvarado would roll in suitcases to carry the bricks of cash
15 out of the business and Silnitzer would not participate in the transaction and instead would
16 stand in a corner. California Check charged a fee for each check cashed. California Check
17 thereby assisted in and profited from Alvarado's wrongful taking of Silnitzer's money. On
18 information and belief, the fees charged by California Check for these transactions is
19 estimated to be over \$67,000. On information and belief, California Check knew or should
20 have known that Alvarado was unduly influencing Silnitzer, and that she was engaging in
21 financial elder abuse. In addition, all times that checks were cashed at California Check,
22 Silnitzer lacked the capacity to enter into an agreement whereby California Check would
23 charge a fee for the checks being cashed. On information and belief, Alvarado knew
24 California Check's owners, employees, agents, and representative and conspired with them
25 to carry out her financial elder abuse.

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1 **FIRST CAUSE OF ACTION**

2 **(Financial Elder Abuse Under Welfare and Institutions Code §15610.30**
3 **against all Defendants)**

4 17. Plaintiff incorporates by reference, as though fully set forth herein
5 each and every allegation contained in Paragraphs 1 through 16 above, and by this
6 reference incorporates those allegations as though fully set forth in this cause of action.

7 18. Silnitzer was at all relevant times over the age of 65.

8 19. On information and belief, Silnitzer lacks mental capacity presently
9 and has lacked mental capacity for the past several years and at all relevant times
10 pertaining to this Complaint.

11 20. Plaintiff is informed and believes and thereon alleges that, from 2017
12 through 2018, California Check and Clovis Check continuously assisted Alvarado and
13 Denning in the unlawful taking of Silnitzer's property by cashing Silnitzer's checks.

14 21. Plaintiff is informed and believes and thereon alleges that California
15 Check and Clovis Check knew or should have known that Alvarado was unduly
16 influencing Silnitzer and engaging in financial elder abuse.

17 22. Plaintiff is informed and believes and thereon alleges that California
18 Check and Clovis Check each profited from Alvarado's financial elder abuse by charging a
19 fee for each check cashed.

20 23. On information and belief, Alvarado knew California Check and
21 Clovis Check's owners, employees, agents, and representative and conspired with them to
22 carry out her financial elder abuse in violation of Welfare and Institutions Code
23 §15610.30.

24 24. As a result of California Check and Clovis Check's assistance in
25 Alvarado's financial elder abuse, Silnitzer was harmed in an amount according to proof.

26 25. Under Welfare and Institutions Code §15657.5, Plaintiff is also
27 entitled to an award of reasonable attorneys' fees and costs.

1 **SECOND CAUSE OF ACTION**

2 **(Negligence, against all Defendants)**

3 26. Plaintiff incorporates by reference, as though fully set forth herein
4 each and every allegation contained in Paragraphs 1 through 25 above, and by this
5 reference incorporates those allegations as though fully set forth in this cause of action.

6 27. In undertaking the act of cashing Silnitzer's checks, California Check
7 and Clovis Check each had a duty to exercise due care to Silnitzer to avoid assisting in
8 financial elder abuse.

9 28. California Check and Clovis Check breached that duty when they
10 cashed Silnitzer's checks when they knew or should have known that Alvarado was unduly
11 influencing Silnitzer and engaging in financial elder abuse.

12 29. Due to California Check and Clovis Check's negligence, Plaintiff has
13 been damaged in an amount that will be shown according to proof.

14 30. The actions of California Check and Clovis Check were willful,
15 fraudulent and undertaken in conscious disregard of the rights of Plaintiff. As a result,
16 Defendants are liable to Plaintiff for punitive damages.

17 **THIRD CAUSE OF ACTION**

18 **(Unfair Competition Law, Bus. & Prof. Code §17200, et. seq, against all Defendants)**

19 31. Plaintiff incorporates by reference, as though fully set forth herein
20 each and every allegation contained in Paragraphs 1 through 30 above, and by this
21 reference incorporates those allegations as though fully set forth in this cause of action.

22 32. Plaintiff is informed and believes and thereon alleges that, from 2017
23 through 2018, California Check and Clovis Check systematically furnished the means
24 whereby Alvarado was able to perpetrate financial elder abuse against Silnitzer in violation
25 of Welfare and Institutions Code §15610.30 by cashing Silnitzer's checks for Alvarado
26 when they knew or should have known Alvarado was exerting undue influence over
27 Silnitzer.

28 33. Such business acts and practices constitute unfair business practices in

1 violation of Bus. & Prof. Code §17200 as they were done with an intent to deceive
2 Plaintiff and the public alike.

3 34. On information and belief, as a direct and proximate result of this
4 assistance, California Check and Clovis Check have received and collected substantial
5 profits in the form of fees charged for each check cashed. Such profits are ill-gotten and
6 subject to an order of disgorgement. As such, Plaintiff seeks an order requiring California
7 Check and Clovis Check to disgorge all ill-gotten gains and to provide appropriate
8 restitution to Plaintiff.

9 WHEREFORE, Plaintiff prays for:

- 10 1. For damages according to proof;
11 2. For cost of suit;
12 3. For reasonable attorneys' fees;
13 4. For California Check and Clovis Check to return all funds acquired by
14 means of any act or practice declared by this court to be unlawful;
15 5. For punitive damages; and
16 4. For such other and further relief as the court deems just.

17 DATED: July 29, 2019

GILMORE MAGNESS JANISSE

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20 By:


21 Ryan M. Janisse
22 Attorneys for Fresno County Public Guardian
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